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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/772,031	RISAN ET AL.
	Examiner	Art Unit	
	Jung Kim	2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-31* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *1-31* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *see enclosed*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-31 are pending.

Information Disclosure Statement

2.   The IDS submitted on 8/26/05 has been considered. An initialed copy is

enclosed.

Claim Objections

3.   Claim 21 is objected to because of the following informalities: replace "is

response to changes" to –in response to changes--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Claims 2-4 make a reference to "said kernel level

extension," however, the claims define two kernel level extensions. It is not clear to

which extension the claims are referring.

6.   As per claims 1-31, the presence of the trademark "Macintosh" is not proper

under 35 U.S.C. 112, second paragraph (see MPEP 2173.05(u)).

7.   The trademark "Macintosh" is used in the claim as a limitation to identify or

describe a particular material or product (Macintosh operating system); hence the claim

does not comply with the requirements of the 35 U.S.C. 112, second paragraph. Ex

parte Simpson, 218 USPQ 1020 (Bd. App. 1982).

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8.   Claims 1, 5-7, 9-13, 16-24 and 26-31 are rejected under 35 U.S.C. 102(b) as

being anticipated by Wiser et al. USPN 6,385,596 (hereinafter Wiser).

9.   As per claims 1, 5-7 and 9-11, Wiser discloses a method for preventing

unauthorized recording of media content on a Macintosh operating system comprising:

      a.   registering a compliance mechanism on a client system having said

      Macintosh operating system operating thereon (col. 6:8-12; 13:3-35), said

      compliance mechanism comprising: a framework for validating said compliance

      mechanism on said client system; and a multimedia component opened by said

      framework, said multimedia component for decrypting said media content on said

client system; (8:45-9:37) and preventing decryption of said media content on said client system having said Macintosh operating system operating thereon if a portion of said compliance mechanism is invalidated (13:64-14:21);

b.   wherein said framework will disable audio playback from the multimedia component until said components of the compliance mechanism are validated (13:64-14:21);

c.   wherein said framework accesses a network to ensure that said components of the compliance mechanism are up to date (8:67-9:1);

d.   wherein the framework establishes a monitoring thread which maintains a constant search for output devices. (inherent to Macintosh OS)

e.   wherein said multimedia component is a media rendering or processing application (6:47-8:17);

f.   wherein said media content is received from a source coupled with said client system, said source is from the group consisting of: a network, a personal communication device, a satellite radio feed, a cable television radio input, a set-top box, an media device, a media storage device, a media storage device inserted in a media device player, a media player application, and a media recorder application (fig. 1 and related text);

g.   altering said compliance mechanism in response to a change in a usage restriction, said usage restriction comprising a copyright restriction or licensing agreement applicable to said media content. (25:11-48)

10.   As per claims 12, 13 and 16-22, Wiser discloses a computer readable medium

for storing computer implementable instructions, said instructions for causing a client

system to perform a method for preventing unauthorized recording of media content on

a Macintosh operating system comprising: registering a compliance mechanism on a

client system having said Macintosh operating system operating thereon (col. 6:8-12;

13:3-35), said compliance mechanism comprising:

      h.   a framework for validating components of said compliance mechanism on

said client system; a multimedia component opened by said framework, said

multimedia component for preventing decryption of media content on said client

system if said framework detects an invalid environment (8:45-9:37); and a

kernel level extension providing kernel level driver information to said framework

(Mac OS kernel); disabling output of said media content on said client system

having said Macintosh operating system operating thereon if a portion of said

compliance mechanism is invalidated; (13:64-14:21)

      i.   wherein said instructions cause said client system to perform said method

further comprising: authorizing said client system to receive said media content;

(14:20)

      j.   wherein said framework will disable audio playback from the multimedia

component until said components of the compliance mechanism are validated;

(13:64-14:21)

      k.   wherein said framework accesses a network to ensure that said

components of the compliance mechanism are up to date; (8:67-9:1)

l.   wherein said framework establishes a monitoring thread which maintains a

constant search for output devices; (inherent to Macintosh OS)

m.   wherein said multimedia component is a media rendering or processing

application; (6:47-8:17)

n.   wherein said client system performs said method further comprising:

accessing an indicator corresponding to said media content for indicating to said

compliance mechanism a usage restriction applicable to said media content;

(19:50-20:8)

o.   wherein said client system performs said method further comprising:

altering said compliance mechanism in response to changes in said usage

restriction, said usage restriction a copyright restriction or licensing agreement

applicable to said media content; (25:11-48)

p.   wherein said media content is from a source coupled with said client

system, wherein said source is from the group consisting of: a network, a

personal communication device, a satellite radio feed, a cable television radio

input, a set-top box, an media device, a media storage device, a media storage

device inserted in a media device player, a media player application, and a

media recorder application. (fig. 1 and related text)

11.   As per claims 23, 24 and 26-31, Wiser discloses a system for preventing

unauthorized recording of media content on a Macintosh operating system comprising:

means for registering a compliance mechanism on a client system having said

Macintosh operating system operating thereon (col. 6:8-12; 13:3-35), said compliance

mechanism comprising:

q.   means for validating components of said compliance mechanism on said

client system; means for preventing decryption of media content on said client

system if said framework detects an invalid environment; (8:45-9:37) and means

for providing kernel level extension information to said framework; and means for

disabling output of said media content on said client system having said

Macintosh operating system operating thereon if a portion of said compliance

mechanism is invalidated; (13:64-14:21)

r.   means for authorizing said client system to receive said media content;

(14:20)

s.   wherein the framework further comprises:

     i.   means for disabling audio playback from the multimedia component

until said components of the compliance mechanism are validated; (13:64-

14:21)

     ii.   means for accessing a network to ensure that said components of

the compliance mechanism are up to date; (8:67-9:1)

     iii.   means for maintaining a constant search for output devices;

(inherent to Macintosh OS)

t.   means for accessing an indicator for indicating to said compliance

mechanism said usage restriction applicable to said media content, said indicator

attached to said media content; (19:50-20:8)

u.   .means for altering said compliance mechanism in response to changes in

said usage restriction, said usage restriction a copyright restriction or licensing

agreement applicable to said media content; (25:11-48)

v.   wherein said media content is from a source coupled with said client

system, wherein said source is from the group consisting of: a network, a

personal communication device, a satellite radio feed, a cable television radio

input, a set-top box, an media device, a media storage device, a media storage

device inserted in a media device player, a media player application, and a

media recorder application. (fig. 1 and related text)

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13.   Claims 2-4, 14, 15 and 25 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Wiser in view of Curran et al. USPN 4,525,599 (hereinafter Curran).

14.   As per claims 2-4, the rejection of claim 1 under 35 USC 102(b) as being

anticipated by Wiser is incorporated herein. Wiser does not disclose the method further

comprising a kernel level extension providing kernel level driver information to the

framework, wherein when an invalid kernel level extension is recognized the framework

directs the kernel level extension to selectively restrict output of the media content;

wherein the kernel level extension matches no physical device on the client system;

wherein the kernel level extension comprises recognizing a kernel level recorder

capturing an audio stream; and informing the framework of the kernel level recorder.

Curran discloses a software protection method for inhibiting capture of audio visual data

by monitoring address and data buses to detect a copy of the data by a microprocessor

emulator. When a trap condition is detected, the method identifies an invalid program

event and switches the encryption/decryption means from a first operating mode to a

second operating mode to disable the copying. Col. 1:67-2:64. Such a feature prevents

the capture of the audio visual data. Col. 1:41-66. Therefore, it would be obvious to

one of ordinary skill in the art at the time the invention was made for the method of

Wiser to further comprise a kernel level extension providing kernel level driver

information to the framework, wherein when an invalid kernel level extension is

recognized the framework directs the kernel level extension to selectively restrict output

of the media content; wherein the kernel level extension matches no physical device on

the client system; wherein the kernel level extension comprises recognizing a kernel

level recorder capturing an audio stream; and informing the framework of the kernel

level recorder. One would be motivated to do so to prevent data capture when a trap

condition is detected. Curran, ibid. The aforementioned cover the limitations of claims

2-4.

15.   As per claims 14 and 15, they are claims corresponding to claims 2-4 and 12,

and they do not teach or define above the information claimed in claims 2-4 and 12.

Therefore, claims 14 and 15 are rejected as being unpatentable over Wiser in view of

Curran for the same reasons set forth in the rejections of claims 2-4 and 12.

16.   As per claim 25, it is a claim corresponding to claims 2-4 and 23, and it does not

teach or define above the information claimed in claims 2-4 and 23. Therefore, claim 25

is rejected as being unpatentable over Wiser in view of Curran for the same reasons set

forth in the rejections of claims 2-4 and 23.

17.   Claims 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiser.

18.   As per claim 8, the rejection of claim 1 under 35 USC 102(b) as being anticipated

by Wiser is incorporated herein. Although Wiser does not disclose the compliance

mechanism further comprises a bad boy list, it is notoriously well known in the art for a

security module to include a list of executables/processes; such a list is used to prevent

known malware from being run on the system. For example, McAfee and Symantec are

two security programs that maintain a list of possible viruses to ensure that such

software does not run on the machine. Examiner takes Official Notice of this teaching.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention

was made for the compliance mechanism to further comprise a bad boy list. One would

be motivated to do so to prevent malware from executing on the computer as known to

one of ordinary skill in the art. The aforementioned cover the limitations of claim 8.

Conclusion

19.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. See enclosed PTO-892.

Communications Inquiry

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jung W. Kim whose telephone number is 571-272-3804.

The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jung Kim
AU 2132
June 18, 2007